



Dora
Department of Regulatory Agencies

Division of Real Estate
Marcia Waters
Director

John W. Hickenlooper
Governor

October 22, 2012

Barbara J. Kelley
Executive
Director

Appraisal Subcommittee
1401 H Street, NW Suite 760
Washington, DC 20005

Re: Proposed Policy Statements, Docket No. AS12-16

Dear Members of the Subcommittee,

This letter is to provide comments to the proposed changes to the policy statements on behalf of the Colorado Division of Real Estate (the "Division") and the Colorado Board of Real Estate Appraisers (the "Board"). We appreciate the opportunity to comment on the proposed changes. Overall, we believe the reorganization of the policy statements is very helpful in understanding the ASC's expectations during compliance reviews. We also believe that the revisions improve one's ability to understand Title XI and the AQB criteria, along with the ASC's ability to enforce the Act. The rating criteria is a definite improvement over the current criteria, although we believe there is still some ambiguity about what constitutes a "minor", "material", "significant" or "severe" deficiency due to the subjectivity of those terms. It is also unclear how the level of risk is defined and assessed.

Colorado has concerns with a few of the proposed policy statements. Those concerns are as follows:

1. Policy Statement 4(A.) *"Applications for credentialing should be timely processed by State agencies (within 90 days)."*

Colorado relies on volunteer appraisers to help complete experience reviews for those individuals seeking licensed or certified credentials. The volunteers have enabled us to dedicate our staff appraisers to completing complaint investigations in an effort to comply with the ASC's one-year complaint resolution deadline. The volunteers provide a tremendous service to the Board, but for obvious reasons, their professional obligations take precedence over their volunteer work.

Due to changes in licensure or client requirements, we occasionally see high volume application submissions that hinder our ability to process applications as quickly as we would like. When FHA adopted the policy to only allow

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certified appraisers to perform their assignments, we experienced an increase in applications for certified credentials. This resulted in a six month delay in experience reviews as we managed the volume increase. We anticipate that we will encounter this same issue prior to the change in the licensure requirements on January 1, 2015. Ultimately, one of our goals is to ascertain whether an applicant meets the minimum requirements for licensure and process the application as quickly as possible so that he or she can begin practicing.

We are also concerned that the proposed rule will not allow us to continue using a process that we use to address those applicants who have experience issues. When an experience review is completed and the applicant is unable to demonstrate compliance with USPAP, we will require the applicant to acquire an additional six months of experience that the Board then reviews to make a licensing determination. The application is still considered active while the additional experience is being obtained, which we presume would not comply with the proposed 90 day deadline.

2. Policy Statement 7(B)(1) *Timely Enforcement... "Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date."*

It is not possible to investigate and litigate a complaint within twelve months. The average appraiser complaint takes us approximately 205 days to investigate. Colorado also has an Expedited Settlement Program designed to resolve cases within 90 days of a disciplinary determination being made. While a majority of our disciplinary cases are resolved by this program, there are licensees that elect to invoke their rights to due process and pursue the matters to hearing.

The Office of Administrative Courts (the "OAC") in Colorado hears cases pertaining to worker's compensation, public assistance, Medicaid, civil rights, water quality, fair campaign practices, highway advertising, assisted living facilities and professional licensure. The OAC is responsible for hearing disciplinary and licensure cases pertaining to appraisers. Based on the most current report, the OAC opened 9,440 cases in 2010 originating from 14 state departments. 2.2% of those cases originated from the Department of Regulatory Agencies, the umbrella agency that houses the Division of Real Estate.

When the Attorney General files Notice of Charges on one of our cases, the setting date is at least six months from the date of filing. The administrative

hearing process takes at least 9 months before an Initial Decision is issued. This is further delayed if the Initial Decision is contested. It is not feasible to resolve an appraiser complaint within 12 months if litigation is required. State regulatory agencies have control over investigative processes and timelines, but we do not have control over the volume of cases referred to the OAC or the length of time spent in the hearing process.

3. Policy Statement 7(B)(4)(b)(7) *Complaint Logs... "Spreadsheet showing chronological record of each action taken"*

We already have well documented investigative files, complete with investigator notes and contact records. Our complaint log documents the progression of a complaint from receipt to investigation through resolution, but it does not contain the minutiae regarding every action taken throughout the complaint management process. Requiring the States to also complete a spreadsheet with this level of detail only serves to further impede the complaint management process. The proposed requirement is an additional drain on our limited resources.

We appreciate your consideration of our comments and concerns. If you would like additional information from us, please do not hesitate to contact me at (303) 894-2422 or Marcia.waters@state.co.us.

Sincerely,



Marcia Waters
Division Director